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CLEARINGHOUSE RULE 02-052

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. The department’s analysis provides useful background information but fails to provide a plain language analysis of the rule itself. [See s. 1.02 (2), Manual.]

b. Section Accy 1.408 (1) should begin “(1) In this section, “ownership interest” means”

c. In s. Accy 1.408 (1), consideration should be given to using the term “firm,” as defined in s. 442.001 (4), Stats., in place of “business organization.”

d. In the first and third sentences of s. Accy 1.408 (4), use of the defined term “ownership interest” can be substituted for reference to “financial interests and voting rights” and “equity interests and voting rights.” In the first sentence of the subsection, which references “shareholders, partners, and members of the firm,” consideration should be given to utilizing the defined term “member of a firm.” See s. 442.001 (5), Stats.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Use of the word “presumed” in s. Accy 1.408 (3) (intro.) may warrant reconsideration, depending on the intent of the rule. Is the intent that for any of the listed circumstances the ownership requirement is conclusively met or rebuttably met? If the former, then it is suggested that use of “presumed” be eliminated; if the latter, it is suggested that perhaps

indication be made that the presumption is rebuttable or, stated differently, that the ownership requirement is not automatically met. See, generally, s. 903.01, Stats. If rebuttable, under what circumstances might the presumption be questioned? Could the applicant provide additional information to show the ownership requirement is satisfied?

b. In s. Accy 1.408 (3) (b), should “held by individuals who are” be inserted after “are” for consistency with pars. (c) to (e)?